

THE NECESSITY  
FOR  
SOME LEGALISED ARRANGEMENTS  
FOR THE TREATMENT OF  
DIPSOMANIA;

OR

THE DRINKING INSANITY.

BY

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## P R E F A C E.

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THE greater part of this paper and the scheme given in the Appendix, were written eight years ago, as part of a proposed review of the entire medico-legal relations of drunkenness, when the Lunacy Act of 1841 for Scotland was in operation, and when, of course, that of 1845 for England was, as it still is, the law of the land. This somewhat extensive design, however, was, from various causes, abandoned; and the portion relating to the restraint of the drinking insane has been kept back until now, from the impression that the public mind was not prepared to consider calmly any measures such as those suggested, and from an idea that the legal profession would be indisposed to view them with favour. But after the publication of the Report of the late Scottish Lunacy Commission, containing a very decided opinion, founded on the evidence of several distinguished medical men, and officers of the Crown, as to the necessity of some “special regulations for prolonging control over cases of insanity arising from intoxication;” and seeing that the measure of the Lord Advocate, arising out of the investigation made by the Commissioners, has become law, without any provision being made to meet the case of this class of unfortunates,—I resolved to submit the following paper to the Medico-Chirurgical Society of this

city, and did so on the 6th ultimo. Encouraged by the reception which it on that occasion received, and the opinions expressed by medical friends, in whose judgment I can confide, that the proper time has come for drawing the attention of the country more strongly to the subject of it, I have given it to the public with very little alteration, except what was required with a view to publication in this form; in the hope that the discussion of the subject may eventually give rise to some arrangements which may contribute largely to individual happiness and well-being, and to the mitigation of a great social evil.

15, RUTLAND STREET, *February* 1858.

## TREATMENT OF DIPSO MANIA.

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MEDICAL MEN are often consulted as to the treatment and disposal of individuals who are either habitual drunkards, or affected occasionally—it may be after short intervals of time—with an irresistible desire for stimulants. Their opinion, too, is not unfrequently required as to the degree of sanity possessed by such persons, their competency to manage their own affairs, or their responsibility in connection with criminal acts.

In the cases to which the attention of the physician is thus called, there is, occasionally, some eccentricity of deportment, or of habits, existing along with the propensity to excess in the use of intoxicating liquors; and generally, after a long course of intemperance or of periodic fits of drinking, the mental faculties are so enfeebled, and the moral sense so perverted, that the unhappy individuals do really become imbecile, or shamelessly untruthful, and otherwise vicious, or destructive, or even violent. Sooner or later they become incapable of transacting the ordinary business, or performing the ordinary duties of life; and, while often utterly helpless and indifferent about their own best interests, they are apt to interfere most injuriously with the circumstances of others, and exercise a most baneful influence on the social relations of the general public.

Such cases are by no means rare; and the physician, along with the nearest and most attached friends of these unfortunate victims of the vicious propensity, has often much reason to regret that the law of the land does not sanction the imposition of some degree of *personal restraint*, where private and ordinary means, moral and medical, have proved unavailing towards the efficient conduct of curative measures, or the prevention of serious injury to person or property, it may be even the commission of some flagrant crime. Much bitterness of heart, much domestic distress, nay, absolute ruin of fortune



and prospects in life, have resulted to many families by the excessive or long-continued course of indulgence in stimulants by one of its members ; and in addition to these present evils, there is often a future curse inflicted on the family, inasmuch as experience has unequivocally proved that the offspring of persons so afflicted are generally feeble and unhealthy—often idiots from birth, or strongly predisposed in future life to insanity in some form or other, or to a similar irresistible propensity to drink. And, although the victims of this form of intemperance may have no relatives or friends immediately dependent on or connected with them, yet they occasion much annoyance to their neighbourhood—they are, in fact, moral pests to society ; being neither fitted for the performance of social duties, nor capable of conducting themselves as good citizens.

Even according to common opinion the habit of drinking in such cases is considered as a disease ; and it is, doubtless, viewed as such by all medical men. Hence the person affected with it is spoken of by both as being of diseased mind, virtually insane, unable to extricate himself from the tyranny of the vice, incapable of bettering his condition in life, and, to a great extent, an irresponsible agent. When it comes to this ; when common-sense doubts are entertained of the person being sane, of his being a moral agent, or of his having capacity for thought and foresight ; when he is viewed by the world as destitute of self-control and self-respect, as suicidally sinking himself in the scale of rational creation, and pronounced to be “a pestilent fellow,”—it surely is full time that he should be looked after and cared for. Since the opinion of society is insufficient to deter him from his vicious courses, and the efforts of those most interested in his welfare no longer influence his conduct or control his actions, it is surely expedient that the law should interfere, and lend its assistance and protection. But it does not ; and to control or check this evil at its source ere it is perpetuated and becomes cumulative, the best medical skill, and the most judiciously contrived and patiently continued arrangements, are too often fruitless, from the want of the requisite power to enforce them.

As the law stood previous to the recent Lunacy Act,<sup>1</sup> its aid—so desirable for the sake of the individual, thus at least morally if not intellectually insane, as well as for the good of others—was not

<sup>1</sup> 20 and 21 Vict., c. 71. Act for the Regulation of the Care and Treatment of Lunatics, and for the Provision, Maintenance, and Regulation of Lunatic Asylums in Scotland (Aug. 25, 1857).

easily obtained; and the law in this respect is still, as I shall afterwards show, by no means in a satisfactory state.

It is certainly right that the law should be jealous of interference with personal liberty and the "freedom of the subject;" and it is in this spirit that the decisions of English judges, in cases of alleged mental disorder, have been framed. *Interdiction* is authorised in the lesser degrees merely of mental disorder; though even it, I believe, is directed only against heritable property, and in no way affects the person and moveables; but *restraint* can only be obtained in cases of more complete mental deficiency,<sup>1</sup> or where delusion or aberration exists to such an extent<sup>2</sup> as to influence mental and physical acts, and instigate the sufferers to the injury of themselves or others, in their person or property.

The individuals, therefore, forming the subject of these remarks—those unfortunate beings styled by some *Dipsomaniacs*, and *Oinomaniacs*<sup>3</sup> by other writers—cannot be deprived of personal liberty, as their case does not come under the strict definition of what is held in law to constitute lunacy.

Thus, in the most recent Act for England, passed in 1845,<sup>4</sup> any one restrained must be proved to be "a lunatic or insane person, or an idiot, or a person of unsound mind." What is really meant by mental unsoundness—a term not of medical origin—is left unexplained; and, consequently, the *dicta* of Lords Coke, Hale, Hardwick, Eldon, and others, though differing widely in the definitions of insanity—for doctors of law can and do differ as well as doctors of physic, the proverb, indeed, having originated in application to them—have continued to be quoted by their successors at the bar and on the bench as authoritative; and the subject remains as vexed and perplexed as ever. Thus antiquated legal and medico-legal definitions and axioms, in regard to disorders of the mind, enunciated doubtless with all the horrors of the mad-houses of by-gone days rising before the mind's eye, have proved

<sup>1</sup> Variouslly styled *dementia naturalis* and *idiocy*.

<sup>2</sup> *Dementia adventitia*, or *non compotes mentis*, or lunacy, as it is improperly termed by lawyers, which comprises the varieties of insanity described by medical writers as *mania*, *monomania*, and *dementia*.

<sup>3</sup> *Dipsomania* is derived from *δίψα* or *δίψος*, "thirst" and *μανία*, "madness," or eager desire. *Oinomania* a name, we believe, first given by German writers,—is derived from *οἶνος*, "wine," and *μανία*, "madness."

<sup>4</sup> 8 and 9 Vict., c. 100, sec. 46. An Act for the Regulation of the Care and Treatment of Lunatics in England (August 4, 1845).



insuperable barriers to modern legislation and scientific and social advancement. It is my belief, indeed, that this is the main reason why opprobrium has been so often cast upon medical testimony for discrepancies in opinion on cases involving the consideration of mental disease, and that even in instances in which, although physicians were agreed, the bar and the bench could not be satisfied. While the legal profession sets up an absolute standard, frames definitions and interprets accordingly, the medical profession cannot acknowledge these as invariably correct or tenable, and refuses to apply such legal craniometers indiscriminately to the varied cases falling under its observation. Thus, while the lawyer refuses to listen to any opinions which do not conform to the notion that medicine ought to be an exact science, and turns a deaf ear to the voice of philanthropy, the physician, on the other hand, looks at the case from a different point of view ; and, keeping the claims of humanity before him, and guided by the lights of science and experience, he makes allowances for those ever varying disturbances of mental phenomena which occur in connection with excited or perverted moral feelings and affections, or which arise from structural lesions or disordered corporeal functions. Hence the physician considers that every case must be judged of by its own special features, and from a consideration of the results likely to spring out of it ; and this too, as in the case of many other diseases, more from the combination of symptoms than from any one diagnostic mark.

The error in past legislation, with regard to affections of the mind, seems to consist in not acknowledging and distinguishing *degrees* of mental disorder, and the *relative disturbance or derangement in the equilibrium of the moral feelings and intellectual faculties* ; and in adhering to an absolute standard or test, either for the warrantableness of restraint, or in determining responsibility for crime. It has not condescended to the investigation of the main facts of each particular case, whether the mind be simply weak or entirely or wholly diseased—the very opposite of its normal or healthy condition ; whether it is destitute of ideas, or only partially so, or filled with wrong ones ; whether the propensities and habits are in a morbid condition, and the conduct consequently unreasonable or insane, even although the intellectual faculties may not manifestly or glaringly be subverted ; and whether, under any of these phases of the mental and moral nature, and from whatever cause the disorder may have originated, the individual is affected to



such an extent, and in such a way, *as to disqualify him for the performance of social duties, the exercise of social privileges, and the management of his own affairs.* In this proposed gauge for measuring mental sanity there is length and breadth, height and depth, sufficient to test any case by its own peculiarities, both in relation to the individual directly concerned, and to society in general; and it affords a sufficient guarantee, alike for the security and liberty of the subject. Such discrimination would include those cases which Dr Prichard<sup>1</sup> has so well described under the appellation of “Moral Insanity,” in contradistinction to the more decidedly and purely mental forms of the disease. He defines moral insanity to be that kind of madness which consists in a morbid perversion of the natural feelings, affections, inclinations, temper, habits, moral dispositions, and natural impulses, without any remarkable disorder or defect of the intellect, or understanding and reasoning powers, and particularly without any insane delusion or hallucination. The manifestations of this species of insanity are very various; but of these it may suffice to mention the following, which are dwelt upon at length in Dr Prichard’s work:—Unreasonable aversion to the nearest and dearest friends, giving rise to unnatural, cruel, and irrational acts; such eccentricity and singularity of habits as leads to the performance of the ordinary actions and duties of life in a way totally diverse from the usual customs and practices of society; such caprice, fickleness, or irritability of temper, as continually incites to disputes, quarrels or fights, and even to such outbreaks of passion as are quite ungovernable, and certainly most dangerous to the objects of aversion, or to the individual’s own life—in the first case exciting homicidal, and in the second suicidal, impulses; and, finally, such a propensity to theft, without any desire of subsequent possession, that the fingers cannot be kept off any apparently unprotected article which may attract the eye; or such an inclination to mischief, without any malevolence or comprehensible motive, as makes him a continual pest to his nearest friends and to society in general. These, and other varieties of moral perversion, which we cannot here notice, become more particularly important in a legal point of view, as forming the partition between insanity and delinquency—between irresponsible and responsible criminal acts, according to the shade or degree in which they are manifested, the way in which they are associated with the intellectual powers, influenced by education, and opposite to, or in

<sup>1</sup> On Insanity, p. 6, etc.

harmony with the natural temper and disposition of the individual in other respects.

I cannot help thinking that the antagonism of lawyers to physicians in regard to definitions of insanity would undergo some change, if the former had an opportunity of studying, even for a brief period, the varied phenomena of mental diseases occurring within the walls of a lunatic asylum. They would then be convinced of the real existence of the endless phases of insanity, and the great variety of its causes and complications. They would then, I doubt not, be convinced of the impropriety of framing and adhering to arbitrary definitions, and of the necessity of considering each case by its own peculiar features and circumstances ; and be disposed to listen with more deference to the opinions of experienced and observant physicians, ceasing to characterise them as “fantastic and shadowy,” “inconsistent” and “unsatisfactory.”

Besides, difficulties in coming to a wise and just decision in many cases which come under judicial examination would be more easily disposed of, were asylums for the insane viewed as places not merely for confinement and restraint but for protection and cure. In penal legislation, Government, now-a-days, considers not merely the punishment of the offender, but, to a great extent, his reformation, and the good of society resulting from both ; and, although the analogy in many respects will not hold good, yet in medico-legal arrangements for the insane, cases of serious mental and moral perversion, which interfere with private and public safety and well-being, ought to be disposed of with the twofold design of protection and cure.

But to return to the more immediate subject under consideration, what has been already stated as the law of England under the statute of 1845 applies equally to that of Scotland, which has hitherto been even more rigid in its requirements, although the terms of the Act of 1857 give some ground to hope for more liberality of construction. By its ancient phraseology, repeated in the Act, June 1841, and acted on to the present day, the only objects indicated as proper for *restraint* are the “furious, fatuous, or lunatic.” The remedy employed in cases, in which mental infirmity or disorder exists in a smaller degree than is supposed to be implied by any of these terms, is either “*interdiction*”—the execution of a writ interdicting the spendthrift from alienating his property, and the lieges from transacting with him—or “*curatorship*,” the exercise of the *nobile officium*, as lawyers call it, of the Court



of Session, by which a *Curator bonis* is appointed for the management of the affairs, and the protection of the property of such individuals, but without having any control over their persons, except what may arise from the possession of their funds. Contradictory interpretations of the term lunatic have also hitherto been given by the highest legal authorities ; and important decisions, founded on these definitions and interpretations, have left much room for cavil and uncertainty. In general, I understand it to be enunciated that lunacy or insanity, to the extent necessary to warrant interference with personal liberty or to procure exemption from punishment, is not to be inferred from any partial mental unsoundness, but can only be declared when proof is afforded that the mental derangement is total and absolute ; or, at least, that when the mental unsoundness consists in delusions, these must be so very decided and persistent as totally to unfit for the usual duties of life.<sup>1</sup> Thus the grounds necessary to warrant personal restraint have been limited to such a degree as would allow, if in every case they were rigidly required, many an individual, in whom reason is really disordered, to go on to ruin in mind, body, and estate, and would withhold from him both the opportunity and the means of cure. In such cases, most sincere, disinterested, well-wishing friends, or even considerate, conscientious, and intelligent physicians, seeking to exercise control over the person with the best intentions, not only derive no countenance from the law, but expose themselves to much inconvenience, and it may happen to the infliction of damages. Indeed, I believe that many hundreds of individuals, at present safe and comparatively happy in the various asylums of our country, would, if tested by such rules, be set loose to the dismay, distress, and disturbance of their families and the community in general, if there were those who would take the trouble, and be at the expense, of proceedings to vindicate their personal liberty and civil rights before the courts of law.

Both in England and Scotland, therefore, there exists a general overstrained delicacy of the law in reference to cases of mental disorder, which, although at first sight it may appear in accordance with the spirit of the age, will, on a closer scrutiny, be found really unsuited to its benevolent and scientific character, and to the humane curative system now prevailing in establishments devoted to the

<sup>1</sup> Hume quoted and enforced by the Lord Justice-Clerk, in the trial of Gibson for fire-raising in December 1844.—*Criminal Law Reports*.



treatment of mental disease—so different from the prison-houses of former times. In consequence of this, while a merely nominal protection is afforded to the liberty of the subject, the real welfare of the individual concerned and of the community, the true interests of persons and property and society, are actually injured or left exposed to serious hazard; and the unfortunate individuals, thus allowed to go at large and unlooked after, are not unlikely ultimately to be convicted, and criminally punished, for acts of violence or mischief, or injury of some kind or other, when in justice they ought to be viewed as truly insane, and more or less irresponsible agents to human law. In short, that very law, by the mistaken delicacy of which these sufferers may be almost said to be incited to illegal acts, does not hesitate to award severe punishment for them, though it, and not they, may be regarded as the truly guilty.

Now, among this class—the class namely, of the mentally and morally diseased—I hesitate not to place the habitual drunkard or dipsomaniac, as already described at the outset of these remarks. I consider that his condition is strictly one of combined moral and mental insanity, and the consequence of a vicious impulsive propensity—for I cannot in such a case denominate it simply as a vice; and I regard it as rendering him incapable of the exercise of social duties and civil rights; and not merely so, but as lessening and altering the nature of his culpability in reference to crime, and thereby his liability to punishment of the same kind, or to the same extent, as the other members of the community. That the excessive incontrollable desire for intoxicating drinks is a disease, and that it is symptomatic of some abnormal cerebral condition which gives it the character of a form of insanity, cannot be doubted; and it should be always kept in mind that this condition is not so much produced by intoxicating drinks, as it is by that which created the desire for them. Mental derangement is discoverable only by manifestations or signs of the physical organs. We cannot reach the state of the mind except through the body. There is, so to speak, no pulse of the soul distinct from the bodily pulse. Thus a man hears strange sounds, he sees phantoms or illusory appearances, he utters absurd and irrational thoughts, he acts violent or grotesque actions; and from these physical signs the physician arrives at the fact of the existence of mental insanity. But the physical proof in each case must be taken for its own authority. There can be no absolute rule for insanity developing itself in any particular

physical sign. Hence its physical manifestation may be addictedness to drinks, as well as to hallucination of ideas. To declare whether it is so, or not, is as much a question for medical skill in the former case as in the latter. But medical observation has declared that dipsomania is a physical proof of mental disorganisation, and therefore it appears to me that such cases stand exactly on the same footing as other forms of insanity; and that, as it never has been questioned that Government may deal with insanity, it seems to be equally within its province to deal with dipsomania. Surely, viewed in the light of common sense, and sifted and scrutinised by the strictest rules of induction, the confirmed dipsomaniac ought to be regarded as of “unsound mind,” or, as I would rather call it, “diseased mind,” *non compos mentis*, and should be taken care of for his own sake, for the welfare of his family, and for the good of society.

The *accidental* drunkard, or one who gets drunk on an occasion inadvertently, becomes a proper object during his brief deprivation of self-control for the home restraint of a lock-fast closet, or for the more public award of a night's lodging in a police cell. Again, the *occasional* or *paroxysmal* drunkard, after intervals of time during which he has perfect power to resist the temptation, enters suddenly on a short course of excessive indulgence, or on a “ramble,” as it is vulgarly styled. This, from some peculiar condition of health, but more particularly in consequence of mental constitution and temperament, induces an attack of what has been called *delirium ebriosum*<sup>1</sup>—which absolutely requires, while the fit of madness exists, the most prompt and complete restraint; and for this purpose, those who come in contact with him should assuredly have most summary legal powers to act without delay in committing him to durance, either in a lunatic asylum or a prison,—or what would be preferable, in an establishment such as I shall afterwards recommend,—

<sup>1</sup> “What has been called the *delirium ebriosum* is nothing more nor less than a protracted form of intoxication, an affection of the brain and membranes, in which there is great vascular excitement, usually from the direct and immediate action of alcoholic liquors. It is marked by an uncontrollable desire for more drink, which, when gratified, excites to further imperious demands, begetting indecorous conduct and engendering passions so wild and vicious, that when the hereditary mental constitution is imperfect, and the previous habits loose or depraved, not unfrequently lead to the perpetration of violent and criminal acts.”—*Dr Peddie on the Pathology of Delirium Tremens, and its Treatment without Stimulants or Opiates*, 1854, p. 7. Sutherland and Knox.



to secure personal or public safety, and a speedy recovery. A somewhat longer and more systematic course of drinking, in highly sanguine temperaments and nervous, irritable dispositions, induces by alcoholic accumulation an attack of *delirium tremens*, and this also necessitates seclusion and close surveillance; and in such instances the aid of the law, in imposing restraint when required, should always be easy and expeditious. But still more necessary is it to restrain, and that by legal authority, the insane habitual drunkard or *dipso-maniac*, whether he happens at the time to be under a fit of the *delirium ebriosum* from suddenly increased excess—which is frequently the case—or of *delirium tremens*, which occasionally occurs from causes which I have elsewhere fully explained.<sup>1</sup>

The course of the habitual drunkard is nearly the same in every instance. A process of mental deterioration goes on gradually and simultaneously with the habit of indulgence; the main desire of his life is how to obtain liquor; his capacity for business is confined to the means of gratifying his leading desire; moral control has lost its sway over him; he has no power to resist the propensity whenever gratification is within his reach; he has, in fact, become the involuntary slave of the vice, and would sacrifice his last sixpence or his shirt, or sell his soul to the devil, for one drop more, rather than be disappointed. Yet, strange to say, the poor creature, in this condition, has no pleasure in drinking. He takes it, not sippingly and with *gusto*, enjoying it as the *bon vivant* does, socially or convivially, but gulps it down in large quantities, away from society and observation, and even as it were a drug; and the only satisfaction derived from the act is that it secures blunted feeling, insensibility to the wretched state of mind which prompts the desire, and an escape from the fancied miseries of his existence. When this has gone on for some time, although a suspension of the use of stimulants be imposed by the interference of friends, or by the occurrence of an attack of either of the two forms of *delirium* mentioned, yet his mind has suffered so materially, that, unless continued control be exercised over him, and this for a very considerable time—which is not often practicable in the present usages of society, and is contrary, as I have shown, to the common law of the land—he returns immediately like the dog “to his vomit; and like the sow that was washed to her

<sup>1</sup> For a full elucidation of the pathology of *delirium tremens*, I would refer to the treatise above quoted, which first appeared in the *Monthly Journal of Medical Science* for June 1854, and was afterwards enlarged and reprinted in August of the same year.



wallowing in the mire ;” and his progress towards some incurable form of insanity, or to an early death from some other superinduced disease, is certain. His moral faculties become more and more diseased, his intellectual powers weakened, disturbed, or at last even annihilated. He becomes either facile or wasteful, or incapacitated for transacting the ordinary business of life, or he is mischievous, and commits homicide or suicide ; these various results being induced according as his natural disposition and passions may urge, or his hereditary predisposition may incline, or some previous injury of the head or disease of the brain may precipitate him.

That such, more or less, is the condition of the dipsomaniac, and that these consequences may, and do, frequently result, cannot be disputed. And yet, because the unhappy victim of this disease does not fall strictly under the present legal definition of unsoundness in mind, he is permitted to go at liberty ; any interference in the shape of control is illegal, and his nearest and best friends, and he himself, are deprived of the only means by which his cure could be effected, and his restoration as a useful member of society accomplished. He is thus permitted, without any barrier being placed, or allowed to be placed, in the way, to hurry himself on to ruin, reducing his own family, it may be, to beggary, perhaps even to disgrace, and at last to accomplish his own sad death, or be convicted and punished for some criminal act committed in an hour of intoxicated madness, for which he is nevertheless held responsible in the eye of the law. In the latter case, indeed, the total neglect of the law to provide for this humiliating disease, is well illustrated by its viewing that very circumstance, which had deprived the criminal of self-control, to be not a palliation but an aggravation of his guilt. There is a deliberate injustice and inhumanity in thus permitting a man to expose himself to the penalties of the law, when it has been long apparent that he has not the power to govern his own will and reason ; for in such instances the drink cannot be said to be taken voluntarily—which is the assumption of the law—it is taken involuntarily, and with no reflection as to its ultimate consequences ; and there is a most manifest injury inflicted on those connected with him in allowing them to be brought to trouble or beggary, when the arm of the law might be strengthened to shield them.

But, to glance for a moment at the case as regards the crime which the dipsomaniac is perpetrating against himself, another argument will be found why the arm of the law should arrest him. He

is, in truth, committing suicide. He knows he is doing it, and yet he cannot stop his fatal career ; sometimes the result does not come so quickly as he desires, and he leaps a bridge, or applies a pistol to the head, or a razor to the throat, to escape from an intolerable existence. Now, Government has no hesitation in putting restraint on the person in cases of suspected or attempted suicide. It would never wait for the act if it knew or could see the intention, or a course of conduct implying suicide as the result. Why, therefore, if drunkards of the dipsomaniac class are truly and virtually suicides, and that mentally as well as physically, should they not be subjected to the restraining power of the law ? It cannot be called punishment in such cases, for the term is inappropriate. But it may be objected that suicides proper and dipsomaniacs have this essential distinction,—that in the former self-destruction is the *end* aimed at, in the latter self-destruction is the mere consequence, not the real object. This, however, is a fallacy. The object of the suicide is not destruction ; destruction is only the means of attaining his object. His object is the attainment of fancied happiness, or escape from fancied misery ; death is but the way by which, in his disordered state of mind, he seeks to reach it. The same object is the drunkard's : drink is the means, but death is the result.

Almost every medical man in ordinary practice, the superintendents of asylums, and the sheriffs of counties, must have met with instances which illustrate all I have now stated ; and within my own observation I could quote cases of the most aggravated and painful kind arising among families, even in the best circles of society, entailing heart-rending distress, endless annoyance, and sudden calamity—cases in which the friends of the unfortunate victims would have thankfully committed them to establishments where restraint, suitable seclusion, and treatment could have been carried out, had they had the legal power to do so. Well would it have been for many hundreds of individuals in this country, if such had been a lawful step. Many would have been saved from going to asylums ultimately—mere wrecks of humanity—who by timely restraint might have not only had their reason preserved, but also become useful and even prominent members of society.

The only advance made in the higher courts in this department of legislation, previously to the recent Lunacy Act, has been the admission, that *furiosity from drink* is a sufficient plea, not only for sending a man to a lunatic asylum, but for detention there for some time after



the effects of the liquor have passed off. This was the deliverance in the Court of Justiciary<sup>1</sup> (Dec. 8, 1855), by a majority of the Judges, in the case of a process of suspension and liberation, raised by a gentleman of fortune in Elgin, against the Procurator-Fiscal of that place, for confinement under an order of the Sheriff in Morningside Asylum.

The evidence given under the Lunacy Commission of 1855, as reported in 1857, furnishes proof that a better feeling now prevails in the minds of many of our local judges, who come more in contact with such cases as those we have mentioned. Mr HUNTER, Sheriff of Dumbarton and Bute, referred to the difficulties he had felt in disposing of dipsomaniacs; and, while he expressed his decided opinion, that they are not cognisable under the statutes of lunacy, he also expressed his regret that it was so; for he says:—

“I think oinomaniacs are not cognisable under the statute. Dr Smith was clearly of opinion that they were not, and other medical men held the same opinion. I think it would be very desirable that there should be some power of holding these persons to be insane; or, at least, of so dealing with them as to prevent them from being dangerous to themselves or to others. As to the general subject, my view is, that there should be an absolute change of the whole system; but a good deal depends on how far you are to have the means of defraying the expense of the requisite machinery.”<sup>2</sup>

*Mr Christison*, Sheriff of Ayrshire, again says:—

“As to cases of insanity from drinking, I think it would be very desirable to have some power to place them under proper restraint, because it is really a form of insanity; but any interference is a matter of so much delicacy, that I cannot see my way through the obstacles to legislation on the subject. I have seen some very lamentable cases. It would be more reconcilable with our feelings to interfere, if such cases occurred only among those naturally weak in mind and dissipated; but there are cases, on the other hand, where you can see the extreme difficulty of interfering. Sometimes men of the highest mind and greatest intelligence in the country, are subject to that infatuation; and it has often occurred to me to ask, What could you do in such a case?”—P. 458.

Then *Sir Archibald Alison* says:—

There is one matter, perhaps peculiar to Glasgow, which I wish to bring under your notice. There is a class of people whom we find it very difficult to deal with in practice,—patients who become insane from the effects of excessive drink-

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<sup>1</sup> “No doubt this violence may arise from drink; but if this man takes immense doses of drink every day, so as to cause fits of fury, ought he not to be put under the guardianship of the statute?”—*Speech of the Lord Justice-Clerk, Report of Decisions of Court of Justiciary—Scottish Jurist*, vol. xviii., p. 83.

<sup>2</sup> Appendix to the Report of the Royal Lunacy Commissioners of Scotland, 1857. p. 454.



ing. It constantly happens that we have applications at the instance of relatives, who come forward and state that such a person is most dangerous, that he threatens the lives of his wife and children, that they cannot live in the house with him. The man, or woman, is probably immediately sent to the asylum; but in ten days or a fortnight they become perfectly sane, in consequence of having been kept sober. They then make the most urgent applications to be liberated; and when you go to visit them, you find them as sane as any person can be. Within forty-eight hours after they are liberated, they drink a bottle, or a bottle and a half, of whisky, and become perfectly mad again. The relatives then come and beg, for God's sake, to put them in again, or they will all be murdered. These cases are of very frequent occurrence, and it is very difficult for the sheriff to dispose of them; because, on the one hand, you feel a reluctance to let a person out, who, by drinking a bottle of whisky, will commit murder the next night; while, on the other hand, we have no authority to keep a man in an asylum who is perfectly sober, and, therefore, perfectly sane. It has struck me that the only probable solution of this question would be, that some power of this sort should be given; that, on the fact being certified by medical men, that a person has become insane and dangerous from drinking, the Sheriff should be authorised to confine him for a limited period, say three months, in order, if possible, to break the habit of intoxication. There may be objections to this, that it is an injustice; but at present we are obliged to let out a person who, we know, will be dangerous in forty-eight hours, although he is sane at the moment. In one sense, such a power in the hands of the Sheriff might be said to be a punishment for drunkenness, but it may also be said to be a preservative measure against dangerous consequences to society, arising from the present system. I have more than once thought of making such persons find security; but they get out, and you never hear more of them till some act of violence takes place. I do not know any way of their being at large, and yet under the control of the Sheriff. At Gartnavel, they sometimes give a man leave of absence; but that is a private arrangement. The persons I refer to, get drunk the moment they get out; and the great difficulty lies in this, that they become perfectly sane after a short period of compulsory sobriety."—P. 379, 380.

This evidence of Sir Archibald Alison's does not so much apply to the class of insane drunkards to which these remarks especially refer; but it goes to prove the necessity there is for summary powers of *temporary restraint* in such instances of the delirium ebriosum and delirium tremens, and this would be well accomplished in institutions such as those I propose should be established, or in the nearest asylum or prison, if the case was urgent; and also the necessity for powers to prolong detention in such instances, if the peculiarity of the case warrants such, for protection and cure.

The medical men, also, who were examined on this part of the Lunacy Inquiry, gave somewhat similar evidence. Thus, Dr SKAE says:—

“ I stated that I had not myself found much difficulty, *generally*, in treating cases of oinomania or insane drinking, in consequence of the want of any legal enactments regarding such cases. I ought to have added, that I have in one or two cases felt very much the want of the legal recognition of this affection as a form of insanity, requiring and justifying the seclusion and restraint of an asylum for its treatment; and have had to deplore the fate of several patients, who were prematurely liberated, from this defect; and that I am fully alive to the great necessity there is for some jurisdiction on this subject for the protection of life and property. In regard to a remedy, it has often occurred to me that an approximation to the French practice might be advantageously introduced into ours, in regard to such cases (and, perhaps, to some others of nervous disorder, not generally regarded as amounting to insanity by medical men, or at least by the public, but requiring control), viz., by appointing a committee of the person, consisting of the two males nearest of kin to the party, two medical men, and the Sheriff of the county; and that this committee might have the power given to them of depriving the individual, in such cases, of his personal liberty, by consigning him to an asylum or house for the treatment of nervous maladies, etc., until such time as the committee was satisfied he was fit to go at large. Such cases to be reported to the inspectors of asylums, commissioners, etc., as the case may be; and the house or houses where such persons were kept, to be subject to inspection, etc., like asylums in England.”—P. 435.

Dr W. A. F. BROWNE, late of Dumfries, but now justly rewarded by his appointment as one of the principal Commissioners of Lunacy, for long-continued, humane, intelligent, and skilful services in the treatment of the insane, gave the following evidence:—

“ We have not many cases from delirium tremens, but we have several cases which may be called dipsomaniaes. We have sometimes cases with us whom we have got into a sound state of mind, whom we would keep longer if we had the power. We have also some who are well, who would not get out if their friends had the power to detain them. No doubt, I can dismiss them if I like; but it is not easy for a medical man to assume the responsibility of dismissing a patient in the face of the warnings of his family. We have had cases where patients claimed to be dismissed, but the results were very painful. In two cases, where the relatives refused to receive back the patients on recovery, the Sheriff interfered on my representation, and liberated a husband in one case, and a wife in another; but the results were not agreeable, for they were not received by their families. The wife was taken to a house in Perthshire; and whether her case was ameliorated, I do not know. The husband was sent to another asylum, where he remains.

“ *Question.*—Would you think it advisable that patients addicted to intemperance should be sent to an asylum for a certain time, and that the Sheriff should have the power of keeping them there for three or six months certain?

“ *Answer.*—I think it would be very beneficial; for the whole hope is that, by length of time, old habits may be eradicated, and new ones engrafted. There is no special treatment generally required in such cases. It is only the re-



covery of a general healthy tone of the system, and a lengthened abstinence, that can make them forget their ‘ wallowing in the mire.’ ”—Pp. 520, 521.

The last medical evidence which I shall quote is that of Dr JAMES SIMSON, of this city ; and it is so very excellent and so much to the point in every respect, that I shall quote it at length. He says :—

“ I have lately seen a number of cases, both in prison and in private practice, which have made me anxious to see some modification in the law, as to the mode of dealing with persons whom habits of intemperance have rendered incapable of taking care of themselves, if not insane. There is a case, at present in jail, of the wife of a most respectable merchant, with whom a great many remedies have been tried, and who, having got a little violent, was put by her relations under what is called Lawburrows. She was there eight months, having been convicted of threatening her husband’s sister. She was quite aware of what she had done, and professed repentance. She got out, and her husband took a lodging for her in the neighbourhood ; but she was as bad as ever the very next day, and the warrant was again put in force against her. I know, also, of the case of a gentleman highly connected, and who belonged to the army for five or six years ; and who, having got into loose habits, was dismissed the service. He came to Edinburgh, where he had a great number of fits of drinking ; I saw him twice under delirium tremens. He was put into confinement, and they were obliged to put the strait-waistcoat on him. On one occasion, he would have killed his keeper, had not another person gone in at the time. After he got better of one of these fits, he agreed to go to Skye. He went there ; but disappeared in about a month, came back to Edinburgh, and almost immediately entered on his old courses. I know the case of another gentleman, who is about 70 years of age, who had at one time a very considerable fortune. He was in the army too, but afterwards got into a very dissipated state. He now lives with his housekeeper. I have known him for three months at a time never sober. His housekeeper, his relations say, they believe, is getting quit of his money as fast as she can, and he is living in the utmost indulgence, although he maintains he never takes a drop. I wrote to his relations in the country lately, and his brother came to see him, but failed in doing any good, it is believed from the influence of the woman. He is still living in that disreputable state ; and now the woman has got her husband and two children taken into the house to live with them. Sometimes she gets large sums of money from him. I know the case also of a young man, the heir to an entailed estate, who lives with the lowest of characters, gamekeepers, etc., and is constantly drinking with them. He is to be seen going about the country like a low blackguard. Once or twice he has threatened to destroy his father’s life. Now, most of these cases, when sober, are quite well, and as sound in their senses as we are ; but some of them tell us they like the drink, and can’t help it, and that they are unable to control themselves ; but at present we can do nothing with them. I know also the case of a man who had got into these habits, and who had got to that state, that he said that were hell-fire between him and the glass, he could not resist the whisky.



“ With regard to the mode of dealing with these cases, I would propose that you should license houses as private asylums for them, or have a separate part in a lunatic asylum ; and that on an application of two relations to the Sheriff, with a certificate by two medical men, that the individual was unfit to conduct his affairs, he should be consigned to such an asylum. I think it quite a reasonable thing to put such persons under restraint ; for, there is no doubt, it would both benefit them and benefit society. I would recommend confinement till the individual was certified to be in a fit state to be let loose, and to manage his affairs.

“ *Question.*—Do you think there is much prospect of reclaiming them ?

“ *Answer.*—Some of them you can’t, perhaps, reclaim ; but if you had power to keep them, it is difficult to say what beneficial effect moral restraint might have. There is no doubt, however, that if you have a blackguard relation going about in a disreputable way, and doing mischief, you would do a positive good to the man himself, as well as to his friends, by confining him. I would recommend a special asylum for the purpose, where there should be wards and detached places, and that you should license people for the purpose ; and I have no doubt you would easily get people willing enough to undertake the office. I knew a case some time ago, where the relations came to me asking me for a certificate of insanity. I said to them, had you come a fortnight ago, I could have certified him as insane from drink, but you have come too late, he is not so now. I knew of a gentleman who had a son who got into the most abandoned habits, whose friends were obliged to send him out of the way. The son wrote a most admirable letter of repentance to his father, promising that, by the blessing of God, he would do so and so. The lad was allowed to come back, but he disappeared again very shortly, and in about three weeks was found in one of the lowest places in Edinburgh. These are all, I think, cases of madness, in the true sense of the word, and if they are not dealt with as such, they should be.

“ *Question.*—How would you draw the line in such cases ?

“ *Answer.*—I would take such cases as the friends petitioned about, and I would require two medical men, who were dispassionate in the case (not the family surgeon), to make a report on it, certifying that the individual was in an unsound state of mind, and incapable of conducting his affairs ; and I would then get the Sheriff to make an investigation by two medical men of his own appointment.

“ *Question.*—How would you do in the case of paupers ?

“ *Answer.*—Let the public authorities petition the Sheriff, if they come to be nuisances. Let the police, the inspector, or any person who has an interest, and who considers them nuisances, make application to the Sheriff. There is no doubt that these parties do a world of mischief to others besides themselves. They reduce their families to poverty, and encourage others to evil courses. I am satisfied that it would be a great benefit to society to have the power of confining them. At present, they snap their fingers at you, and though threatened to be put into an asylum as insane, they tell you they will be out again in a month. The number of such cases that have come under my knowledge is painfully great ”—Pp. 524–526.

Now, the inferences which I would draw from these strong opinions are :—

I. That the man furious or delirious from drink requires immediate restraint and surveillance in an asylum or elsewhere, for some considerable time, and until he has completely recovered from the fit.

II. That the dipsomaniac must unquestionably be considered as an insane person—as labouring under such weakness of the mental faculties, and such perversity of the moral feelings, as to warrant, not only the imposition of restraint, but its continuance for a considerable period of time, probably two or three years, so as to afford the only chance there is that self-control may be regained, and ruin averted.

III. That the law gives too limited a definition of insanity, when it does not recognise these extreme cases as falling within its powers ; that, consequently, when such cases have been treated in asylums, they have been submitted to in some measure, or to some extent, voluntarily, or been detained illegally,<sup>1</sup> and in neither case so successfully as would have been under other circumstances.

After such evidence as the foregoing, it was impossible for the late Commissioners to avoid expressing somewhat decided opinions, which they did in the following terms :—

“ There is one form of insanity, namely, that which results from, or is connected with, over-indulgence in intoxicating liquors, which demands some special observations. During the course of our investigations, we have frequently observed the difficulties that attend the treatment of such cases. The first which occurs, is the question whether the patient can be considered and treated as a lunatic. Mr Hunter, Sheriff of Dumbarton and Bute, is of opinion that oinomaniacs are not cognisable under the statutes ; and this view is held by various other authorities, both legal and medical. But in cases where the opposite view is acted upon, and the patient is placed in an asylum, his speedy restoration to sanity, as soon as the stimulus is withdrawn, becomes a source of great embarrassment. For, with recovery, the legal power of detention is lost ; and the patient is accordingly set at liberty before his system has become ha-

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<sup>1</sup> This has undoubtedly been experienced and practised to a considerable extent in various asylums, and apparently admitted by Dr Skae, in the evidence quoted, so far as the Morningside Institution is concerned. Besides, houses, such as those at Trinity, Joppa, and in the Island of Skye, are mentioned in the Commissioners' Report as having long been open for the reception of such cases ; and our own House of Refuge appears at present to have many inmates of this description, which, if admitted voluntarily, are at least detained by compulsion, and without legal authority.



bituated to the withdrawal of the stimulants. Consequently, he again gives way to intoxication ; in all likelihood impoverishes himself and his family, and not improbably ends his career by committing murder or suicide. In the evidence which was given before us, various suggestions are made to meet this crying evil ; but they all resolve themselves into the recommendation to deprive the patient of his liberty for a period sufficiently long to allow the system to accommodate itself to the want of stimulants, and thus to enable the patient to resist the morbid craving which their withdrawal produces. There is no doubt that the evil is one of great magnitude in Scotland, and more especially, perhaps, in the western districts. Of 559 cases, admitted in the years 1853 and 1854 into the Glasgow Asylum, 110 were traced to intemperance. Of 448 cases, admitted into the Edinburgh Asylum in the same years, 58 were ascribed to the same cause. The number of cases due to intemperance may, however, have been considerably greater in both institutions, as during the above period 87 cases were admitted into the Glasgow Asylum, and 112 into that of Edinburgh, in which the cause of the malady was unknown. Any measures, however, that may be adopted to meet this evil, should be as simple and uncomplicated as possible, in order to insure their being carried into effect, not only in the cases of individuals possessed of pecuniary means, but also of those belonging to the lower ranks of the people. The necessity of the case has, in the meantime, led to the establishment of particular houses, in some of which, patients are received at their own request, while in others they are placed by their friends, and illegally detained by force. Miss Wotherspoon's house for females belongs to the former class, as does also an establishment for men in Skye, the chief advantage of which seems to be remoteness from any house where intoxicating liquors can be procured. As places where such patients are detained against their will, may be mentioned a private house at Trinity, near Edinburgh, and the House of Refuge, in that city.

From a consideration of the above facts, it appears to us highly important that some plan should be devised whereby a degree of authority might be legally retained over such cases, allowing, at the same time, a certain amount of freedom. Such a check might, we think, be exercised, in a very salutary manner, by first placing them in asylums, and then allowing them to leave on probation, which should terminate at a fixed period, or be subsequently extended, as might be deemed advisable. The warrant remaining in force, the patient could be at once re-admitted, should it prove necessary, without fresh certificates. A patient placed under this modified restraint would, we conceive, be in a favourable position also as respects treatment ; for, whilst exposed to temptation, the power of again placing him under restraint, thus impending over him, would act as a salutary check, by strengthening his self-control, and weakening, and perhaps permanently destroying, the morbid propensity. In this way a cure might ultimately be effected."—Vol. i., pp. 242, 243.

The Commissioners further, in their summary of suggestions (No. 14) for future legislation, urged Government to devise some "*special regulations for prolonging control over cases of insanity arising from intoxication.*"—Vol. i., p. 256.

This was a very moderate recommendation, probably much short of what some of the Commissioners may have deemed requisite ; and, had it been carried into effect in the Bill framed by the Lord Advocate and now the law of the land,<sup>1</sup> an advance would have been made in the right direction of social legislation, and a great benefit thereby conferred on the country. But it would appear that the difficulties attending the subject deterred the Lord Advocate from proposing any legislation regarding it, in connection, at least, with the proper Lunacy Act ; and, therefore, it appears desirable that the subject be now placed before Government in a stronger light, and the necessity shown for even more being done than the Commissioners suggested.

It may be that by the new Act some may consider that the dipsomaniac is recognised as a lunatic. It differs so far from that of 1841<sup>2</sup> that the person now indicated for restraint is an “insane person, an idiot, or a person of unsound mind,” (sect. 35) ; and it is thus assimilated to the last Act for England, already referred to. But there is this to be said in its commendation that, while the interpretation clause of the English Act is quite barren of information as to what is to be understood by mental unsoundness, the corresponding clause in the Scotch Act announces that “the word ‘lunatic,’ shall mean and include any mad or furious or fatuous person, or a person so *diseased or affected in mind*,” etc.—(Sect. 3). Now, this phrase, “diseased in mind,” is much more psychologically correct than that of “unsound mind,” which, when rigidly considered, means anything, or nothing, in respect of insanity ; and, if it can be shown, as I think I have done, that the drunkard, as described, labours under a form of mania, the result of an unhealthy condition of the brain, and, further, that in consequence of this he is found, in the terms of the same clause, to be “unfit, in the opinion of competent medical persons, to be at large, either as regards his own personal safety and conduct, or the safety of the persons and property of others, or of the public”(sect. 3),—then possibly the poor dipsomaniac, when under the more direct, acute, violent delirium of drink, may be sent to an asylum with greater safety than heretofore, and even detained

<sup>1</sup> 20 and 21 Vict., c. 71. Act for the Regulation of the Care and Treatment of Lunatics, and for the Provision, Maintenance, and Regulation of Lunatic Asylums in *Scotland*. (25th August 1857.)

<sup>2</sup> 4 and 5 Vict., c. 60. An Act to Alter and Amend Certain Acts Regulating Madhouses in *Scotland* ; and to Provide for the Custody of Dangerous Lunatics. 22d June 1841.)



there for some time after it has abated. Supposing, however, that the present law gives this facility, I would accept it only as an instalment of what the necessity of the case demands, and would still desiderate more distinct legislation on the subject, and urge the establishment of institutions, such as those suggested in the Appendix, distinct from Lunatic Asylums, where such cases could be treated and the patients detained till a thorough cure was effected. But I am apprehensive that the legal profession will not consider that there is anything in the enlarged definition of the insane given in the Act, to afford sufficient ground for departure from the ancient *dicta* of the Courts of Law, both of Scotland and England, in the latter of which countries the term, "unsound mind," has been legislated on since 1845; and thence that the total or absolute insanity of an individual, or the existence of a decided delusion, will still be deemed necessary for restraint, where neither imbecility nor furiosity are alleged to exist.

It is, I believe, only in cases of the more complete states of mental insanity that, under the present statute as under the former one, a dipsomaniac can be sent into an asylum. The greater number of instances in which there is weakened mental power combined with excessive moral perversion, and which ought, for the preservation of personal and social decency, comfort and prosperity, to be subjected to restraint, will derive no benefit from the change in the law. Thus many most necessitous objects for physical, moral, and mental treatment, are shut out from the timely benefit which ought to be extended to them, and a blasting curse is inflicted on individuals, families, and the community, extending down no one knows how far, or how widely, into posterity. Then, of what avail is it if the unfortunate being is reduced to complete imbecility before he is sent into seclusion? In such a case the time has gone by for benefit, and he is doomed to spend the remaining days of his life in a state of the most humiliating fatuous existence.

It will be found then, I apprehend, that under the present statute rarely any but the furious and dangerous will be placed under restraint, and even in the majority of such cases, what comfort can there be in the step taken? The experience of all superintendents of asylums—and the recent Act can make no difference—has been that such persons are pests in these establishments, disliked, it would appear, even by the other insane; and that the result of treatment, in most cases, is very unsatisfactory.<sup>1</sup> A man is not many weeks under restraint,

<sup>1</sup> Of the causes of moral insanity, by far the greater number were characterised

denied of course all intoxicating liquors, when the excitement from the alcoholic poison passes away, and he becomes comparatively quiet and sane. He now demands his liberty, which he knows he has a right to possess, unless it can be affirmed that he is decidedly insane; and so long as he is detained, which is generally not very long, he is troublesome in the extreme, from his clamorousness, deceitfulness, lying, and general perversity, disturbing the proper arrangements of the institution. He soon, however, obtains his liberty, for there is, in such a case, *no legal power of detention*; and, as he is still in a weak state of mind, and his dispositions perverse, the length of time during which he has been under control and treatment being quite insufficient to produce any change on the abnormal condition of his mental and moral constitution, or to remedy that peculiar condition of the brain of which the incontrollable craving for stimulants is a symptom, the result is that the moment he is at large he returns to his former practices with greater recklessness than ever, and the last state of that man is worse than the first. Now, too, his condition is probably complicated and aggravated by feelings of animosity towards the medical man who placed him under restraint, or the friends or other parties who were concerned in it. Such, therefore, being the unsatisfactory result of too early liberation from restraint, and the consequent cessation of an absolutely necessary course of curative treatment, medical men, unless in instances of furiosity or threatened injury to life, are indisposed to incur the responsibility of imposing restraint, which, while productive of no lasting benefit, is afterwards apt to prove to themselves a source of annoyance or even threatened danger. Thus all efforts for the wretched dipsomaniac's welfare are frustrated, in consequence of the facility in obtaining liberty being greater than that for imposing restraint at first.

In a word, the facility for legal interference, in the present condition of the law, is so limited, as to be totally inadequate to meet the necessities of the case; and in those cases in which the law is put in force the result almost uniformly is unfavourable,—without benefit to the individual chiefly concerned from much too early

chiefly by an insatiable and uncontrollable craving for stimulants, the loss of self-control, and a shameless and complete disregard for truth. Such patients are the most troublesome inmates of an asylum, and the results in regard to them are *almost uniformly unsatisfactory*. Some legislative enactment for the control of such persons, and their treatment in houses specially set apart for that purpose, would save many lives, and many families from shame, grief, and loss of property, or total ruin.” *Dr Skae's Report of the Royal Edinburgh Asylum for the year 1854*, p. 21.



liberation, or to other parties from the renewed annoyances to which they are exposed, and from increased danger of injury to property or life.

In so far, therefore, as the law at present stands, although no case has yet been tried, I firmly believe there is little reason to hope that the difficulties in disposing of the dipsomaniac are removed; but, on the contrary, that the matter rests very much, if not altogether, as it did before the last Act was passed, and that the complaints of all who have given any attention to the subject remain unredressed. I consider that Government have given the go-bye entirely to the suggestions of the late Lunacy Commission,—no doubt partly owing to the way in which the late Bill was hurried through Parliament, but probably also owing to an aversion to raise discussion, and call forth denunciations from the unreflecting and the interested on what might be alleged to be an infringement of the liberty of the subject.

Some, perhaps, may take very high ground against legislation for the dipsomaniac class of the insane; some, possibly, may out and out object to legal interference with any form of drunkenness, on the ground that it is an overstepping of the nice and proper distinction between what may be called *civil-moral* and *merely moral* jurisdiction, and thus throwing open the door to interference with mere *mental* immorality, though unconnected with any of those physical demonstrations which, in the present state of law, bring that immorality under its cognisance. But the conclusion is unfounded. A distinction is quite appreciable between the moral crime of drinking, and the moral crimes of infidelity, disregard of religion, coveting, evil speaking, and such like. These are *natural* breaches of morality. They are the products of the natural deceitfulness and wickedness of the human heart. But drinking to excess is not natural. The indulgence in intoxicating drinks is purely artificial. The desire for them, particularly the more spirituous, is entirely acquired. The taste, indeed, is easily acquired,—so much so as almost to imply a palatal propensity for them; but it is the exciting effects, themselves unnatural, which attract, and the taste soon follows on the sense of pleasure, or the experience of relief from pain and oppressive misery; and in proportion to the increasing mental disorganisation springing out of indulgence, is the frequency of the acts of gratification. But further, and more particularly, since the direct effects resulting from excessive drinking are that they pervert those

powers of the mind which distinguish man from the brute creation, overthrow reason, and consequently lead to the infraction of all the laws, natural and conventional, of social order and existence, assuredly it cannot be beyond the province of Government to impose some legislative checks.

But, more than this, the power of Government to restrain the *use* of intoxicating liquors has been already recognised and exercised. The reason for the exercise—and I do not say that it has been wrong, since a vast amount of evil has been prevented, and good obtained by it—is the abuse of those liquors by a small minority of the public. For the guilt of this minority, Government has put a restraint upon the personal liberty of the innocent public. I say *personal liberty*, for it is as truly so, to remove *that from* any one to which he is entitled, as to remove him *from it*, or to bind him so as to prevent its being used or approached. It is, therefore, not a stretch of this recognised power, but rather an inductive result of it, recommended too by reason and justice, equally wise, and perhaps more equitable, to apply the restraint on the abuse, and thus affect the guilty only, rather than upon the thing abused, and thereby affect the innocent and the guilty indiscriminately. No doubt one great object of legislation may be regarded as prevention as well as cure. But what is wrong is attempting the prevention merely, and not adopting the cure likewise. The Government tries to prevent the abuse by restraining the use; should it not also try the cure by restraining the abuser?

If the above reasoning is correct, nothing can be more legitimate than the exercise of judicial powers over the various kinds of drunkards, according to their condition, social relations, and the apparent consequences of their acts. Thus the drunk and disorderly in our streets are properly taken charge of by the police as offenders; and those affected with the *delirium ebriosum* and the *delirium tremens*, if not in a position to be well and safely taken care of at home, are at once removed to an asylum or hospital, until the fit of furiosity or delusion pass off. But it is still more highly expedient, on every personal and relative consideration, that the dipsomaniac, the chronic insane drinker, should be suitably restrained *since he can no longer control himself*. This is the full and true limit to liberty of person. In this state he must forfeit his freedom for a while. He is no longer a voluntary drinker, but is hurried along to destruction, and also, probably, to the serious in-



jury of others. It is I consider, as much the duty of a good Government to interpose in this case, as if it was to stay the hand of the homicide or the suicide in their insane impulse. And let not this treatment—compulsory as in most cases it must be—be viewed in the light of a punishment, when the present good and the future benefits are taken into account. By such restraint, continued for two or three years, the low, grovelling propensity to excessive indulgence would probably be overcome—possibly obliterated—and the dethroned reason would regain its power and control. Good nutritious diet, exercise, wholesome air, and regularity of life, would affect a powerful influence on physical vigour, and through it, on the structure and functions of the brain; and amusement, occupation, and means of moral and religious instruction, would all assist in raising the individual from his disordered and debased condition. With improved mental vigour self-control and self-respect would spring up, so that there is every reason to believe that many of those, otherwise lost to society, would become useful members of it, and thus many families and dependants would be raised in the scale of society, instead of being sunk to the condition of paupers and burdens on it.

But merely to provide for *prolonged control in cases of insanity arising from intoxication*, as proposed by the late Commissioners of Lunacy, although likely to be eminently useful, would not meet the wants of the case. Power should manifestly be granted, under such restrictions as are proposed in the Appendix to this paper, *to place under control* those whose minds are disordered—not merely from excessive and continued drinking, but from that evident abnormal condition of the brain, of which the ever-craving desire for alcoholic stimulants is the proof or manifestation, but which gratification and an accumulating influence no doubt maintains and increases. Delay in such cases is dangerous, when the mental and moral condition of the dipsomaniac tends to violence, or even to a homicidal or suicidal act; and the deed may be done which timely interposition might have prevented. But further, timely aid may avert much irreparable confusion and mischief; for from what has already been stated it must be apparent that many cases are characterised by mischievous eccentricity when there is no existing delusion; or by disregard of the usages and decencies of society; wasteful, profligate extravagance; sottish imbecility; and variously mixed and disordered moral and mental phenomena, which lead to degrada-

tion and destitution. Why, therefore, should not the Legislature attempt to protect the property of the dipsomaniac, and of those connected with him, before he or they are irretrievably injured or ruined? Why should a good Government allow any of its subjects to go at large until the very latest possible time compatible with private and public safety, when all observation and experience points out the danger? Why should it not attempt to avert the commission of some horrible crime, rather than simply go through the accustomed forms of judicial procedure, in order to punish a man for what he can scarcely be held responsible for? or place him as a culprit at the bar, when his testimony would not be received in the witness-box? or find out, too late, that he really is a maniac, and sentence him at last to an asylum as a criminal? In fine, when it is known from hundreds of instances that the unhappy victim of this vicious propensity has no self-control—which properly ought to be the legal test of this form of insanity—why not make a timely, wise, and benevolent effort to save him? Why withhold from him the only remaining hope of cure? Why not prevent his going to a premature grave, or to beggary, or to a poor's-house, or to an asylum, to pass there a miserable existence, as an *incurable* lunatic? Liberty is sweet; personal liberty is a precious thing; but this, in truth, is a high price to hazard for it. To attempt to rescue an unhappy dipsomaniac from his dangerous condition; to restore him to a position of self-respect, and consequently self-control; to restore to families one who may become a well-doing, dutiful son, an industrious and affectionate husband and father, or wife and mother; or to reclaim to society one who would have become a pauper and a burden on it, but who may be made a useful member of it, would surely be safe, sound, and sagacious policy.



## APPENDIX.

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IN the preceding paper I have advocated new legislative provisions for the care of the Dipsomaniac.

I think that the supposed difficulties in the way of Government interference, are by no means insuperable, and that just and discriminating arrangements would sufficiently guard the liberty of the subject, and be very generally approved of by the sound-headed and right-hearted of the community—particularly by the medical profession, under the observation of which, so much that is vexatious in this department of social evil falls.

It will naturally be asked, by what arrangements I would propose to accomplish the purposes contemplated? I would reply by submitting the following plan, which, although drawn out in detail, I shall now merely sketch, so as not to distract discussion from the medico-legal principles on which the merits of the question must in the first instance turn:—

I. At least four *establishments*, in the first instance, should be opened in different parts of Scotland—say at Edinburgh, Glasgow, Dumfries, and Inverness, with all necessary arrangements for the reception, seclusion, comfort, and cure of different grades or classes of Dipsomaniacs. These institutions, if altogether under the Public Board of Direction, hereafter to be mentioned, should be made as much self-supporting as possible; or they might be under licensed management, as Private Lunatic Asylums are at present; but, in that case, subject to the observation and control of a Board, according to prescribed regulations. I most decidedly prefer separate institutions to any accommodation in existing Lunatic Asylums, as the various arrangements cannot, as appears from the statements by Superintendents of Asylums, be conveniently made compatible with

these, or so conducive to the accomplishment of cure ; and, besides, it would be better not to raise more prejudice against the restraint of the dipsomaniac than is absolutely necessary, for many may feel strongly opposed to the idea that he, who, in the brief period of a few weeks, in consequence of abstinence from intoxicating liquors, *under restraint*, becomes comparatively sane, should be classed or associated with those who are in a greater or less degree decidedly insane.

II. A Board should be formed at each of these places, composed say of a Magistrate, a Justice of the Peace, a Clergyman, and a Physician, salaried of course, but only to the extent of being somewhat compensated for time spent in the transaction of business connected with these arrangements—the duty being understood to be viewed as of a benevolent character. The duties of this Board should be to meet from time to time to consider cases brought under its notice ; to grant orders for reception and discharge as it thinks proper ; to make regular visits to the establishment, in order to see that the various arrangements for the care, comfort, and cure of the inmates are properly carried out ; and, in general, to consider all matters connected with the proper working of the scheme.

III. In all cases of complaint against the decision of these Boards of Direction—whether in regard to treatment or detention—appeal might be made in the form of a memorial to the Lord Advocate, who might order inquiry if he thought fit, and his judgment should be final ; or, since there is now a Lunacy Commission, appeal might be made to them—their decision also being final.

IV. Applications for protection and cure might be made *voluntarily* by the Dipsomaniac himself, in which case he must be understood to agree to the rules of the Institution in which he placed himself, and to remain within it for such a period of time as the Directors consider likely to effect recovery from the insane desire for drink. Applications, on the other hand, for *compulsory restraint*, might be made to the Sheriff of the county in which the case occurs, by any friend, relative, member of the community, or Parochial Board, and the Procurator-Fiscal for the public interest, should also have power to make application in cases of very aggravated Dipsomania, where there is no relative or other party willing to do so ; and, in such cases, it should be his duty to make the necessary inquiries, and to take the necessary steps, as an officer of



the Crown, especially in cases in which danger is to be apprehended from sudden outbreaks of furiosity—having recourse afterwards for expenses, on individuals or the parish, agreeably to sect. 85 of the recent Act: Of course, where the Procurator-Fiscal is the applicant, he should give due notice of his intended proceedings to friends or the parties whom it might afterwards concern as to expense of maintenance, etc. In the case of *voluntary* applications, they might be made at once either directly to one of the Boards of Direction, or to it through the Superintendent of one of the authorised institutions without the intervention of the Sheriff; and in this case, were facility given for escaping public observation, the applicant might the more readily be induced to place himself under voluntary restraint, which would be most desirable. In cases of *great urgency from violent delirium*, the Superintendent of any of these authorised establishments should be empowered to receive the individual without delay, although there may be no formal warrants or certificates, but he should take immediate steps to have the Act confirmed by the Board of Direction, within a short space (*say three days*) from the date of admission.

V. All applications for compulsory restraint should be in the form of a petition to the Sheriff, and should state the grounds on which they are made. They should, for example, state that the individual has been addicted to excessive indulgence in intoxicating liquors for so many years (not less than six years in the case of one manifesting simply imbecility); that all ordinary and available means of cure have proved unavailing; THAT ALL POWER OF SELF-CONTROL IS GONE, and that nothing stands in the way of the possible gratification of the morbid desire; that the vice has induced great mental weakness and perversion of the moral feelings—as evinced by (*more or less, as the case may be*), indecorous or indecent behaviour, disregard of truth, uncleanness of person and habits, or wastefulness and extravagance, or mischievousness or violence; and that altogether the mind of the individual has become so diseased in its operations, that person and property are alike uncared for, domestic peace and comfort, and family prosperity blasted, and good neighbourhood disturbed (*as the case may be*), or the life of the dipsomaniac himself or of others, endangered. OR, in a case of short duration (an *acute* form of the disease), say even of one year's standing, the application might be made, if it can be shown that the individual complained of HAS AN

UNCONTROLLABLE DESIRE FOR STIMULANTS ; and that when indulged in beyond a certain limit, in consequence of some peculiarity of constitution or cerebral condition from injury or disease, an outbreak of furious madness occurs, which places in hazard any one, or every one, within reach. OR, application might be made to the Superintendent of an authorised establishment, or to any licensed Asylum in the county for *pro tempore* care in the case of great urgency, where delirium exists in any form from intoxication. Thus would cases of the *Delirium Ebriosum* and *Delirium Tremens* be at once properly cared for, and immediate danger to life and property avoided, without any formal legal warrant or certificate, where such could not be accomplished in private without much inconvenience or danger.

VI. The principal statements contained in applications for compulsory restraint should be attested to the Sheriff by witnesses acquainted with the facts, and by the medical attendant of the individual, if such there be, from what he knows and has personally observed. The Sheriff should also in all cases require an opinion from another medical practitioner appointed by himself ; and he should then transmit the evidence in writing to the before-mentioned Board of Direction of the district in which the case occurs, with as little delay as possible, and with these forward the individual to be restrained if the case seems one of urgency.

VII. On the Board being satisfied from the statements furnished to them of the necessity or desirableness of restraint being imposed, for the protection of property or life, the good of the community, or for the recovery of the individual, they should notify their opinion to the Sheriff, in order that he may issue the necessary warrant or certificate, and see that it is carried into effect ; and they should forthwith make arrangements in the establishment, over which they preside, for the reception of the patient, and thereafter be charged with his suitable care and comfort, and if possible his cure.

VIII. The Board or Superintendent should not detain any person received into the Institution on account of an *acute* attack of delirium from intoxication longer than is absolutely necessary for complete recovery, unless with the consent of the individual ; and in the *chronic* forms of the disease—the true dipsomania, they should grant



no warrant or certificate for a shorter time than six months, or for a longer period than two years,—although the friends of a Dipso-maniac might be allowed to remove him within these periods, provided no tendency to violence has been manifested in the course of the affection. In every case of removal the Board must be satisfied as to the reasonableness of the desired change, and have some assurance given them that the individual be properly looked after and cared for ; and the Board should have full powers *to prolong the term of detention* in any case as circumstances may suggest, with the concurrence of the friends, even beyond the period of two years, which has been found by experience to be, in the great majority of cases, rather too short a period of abstinence for the chance of effecting a cure. They should also, while the term of detention at first agreed on is still uncompleted, have the discretionary power, with a similar concurrence of the friends of the person under restraint, to grant a trial of liberty for a certain period before final freedom is permitted.

IX. *No individual restrained under the proposed regulations should be considered as altogether deprived of civil rights*, but should have the power to execute any testamentary or other deed, or avail himself, under surveillance, of any external civil privilege on the attestation of the Board that he is in perfect sobriety at the time of doing so ; that he is sane in other respects ; that he is able to distinguish between right and wrong ; that he fully comprehends the matter under consideration ; and that he is not apparently instigated by any malice towards those who were the means, or who gave their consent towards placing him under restraint, if the deed concerns such.

All the other arrangements in regard to the management, domestic and medical, of these proposed establishments ; the nomination and appointment of the Board of Direction ; the division of labour among the different members of the Board ; the amount of their salaries ; the expenses incurred by the Procurator-Fiscal, and for medical testimony ; the forms of procedure ; the modes of transmission of cases from one part of the country to another ; the liabilities of friends, Parochial Boards, etc., for the costs of the maintenance of dipsomaniacs, or their responsibilities in surveillance over them after due notice has been given of the requirements of a particular case,—all these matters could be very easily and satisfactorily arranged if the weightier considerations were agreed to.

The above scheme, I am convinced, could be worked out so as to cost the country very little annually. The establishments proposed might be made almost entirely self-supporting. Many of the fees, too, of procedure would be paid by private persons or by Parochial Boards ; and the remainder, probably not many hundred pounds, would be a small outlay indeed for the good likely to be obtained. To save even a few dipsomaniacs or their families or connections from ruin would be no small benefit ; and there is no doubt that the length of time during which control would be continued would be highly beneficial, arising both from the improvement of the physical condition, and the moral influence produced on the mind. By this, too, the country would profit not a little ; for, not to speak of the burden which the offspring of such unfortunates necessarily, in many ways, entail on society, by such reformatory or conservative measures many would be kept from passing the remainder of their days in poor-houses, hospitals, and asylums. Doubtless, many also would be kept out of prison ; and thus, by the lessening of crime, which is too well known to spring so wildly and abundantly out of unrestrained systematic drunkenness, a very great saving to the country would be effected, not only in the maintenance, but in the prosecution of criminals.